

IN THE UNITED STATES BANKRUPTCY COURT
District of Puerto Rico

In the Matter of:

JOSE DANILO MELENDEZ COLON
AMELIA LOZANO ROLON

Debtor(s)

Case No. **13-03404 ESL**

Chapter 13

**MOTION TO RECONSIDER DISMISSAL
AND VACATE ORDER OF DISMISSAL**

TO THE HONORABLE COURT:

The undersigned, attorney for the above-named debtor, notifies the Court as follows,

1. An order dismissing case (docket number 14) was entered in response to an unopposed trustee's request for dismissal as per docket number 11.
2. The trustee's motion was grounded on debtor failure to timely address three issues: (1) Debtors made not arrangement for Christmas bonus in the plan; (2) Debtors did not provide adequate protection for creditor Borinquen Auto in the form of an insurance and (3) The trustee requested the elimination of debtor's expenses in Schedule J for the education of their grandson.
3. Debtors' were willing to amend the plan and include their Christmas bonus as they did initially with the tax language, but we were expecting the evaluation of the insurance premium requested by July 7, 2013.
4. The insurance premium calculation was returned before the motion due date, but it was prepared according to the plan dated April 30, 2013 that erroneously proposed that regular monthly payments of vehicle be made by the trustee instead of payment in full. The result was that the Insurance Company considered that there was no extension of the loan and therefore, no need for insurance. Initially we were a little confused with the reply until we figured out the problem and decided to renew our request for insurance with new terms in an amended plan.
5. The trustee also objected debtors' provision to pay school expenses for their grandson. We discussed the issue with debtors and they decided to submit a sworn statement clarifying the situation and we have attached the sworn statement as part of this motion.
6. Even though the issues were timely evaluated and the corresponding actions considered, the period to answer the motion for dismissal elapsed and we inadvertently missed the due date to request and extension or make the corrections, partly because our office was closed for several days during July.

7. We have amended the plan dated July 26, 2013 including the premium for the insurance and adding provision for the Christmas Bonus. Regarding the expenses for debtors' grandson we have submitted an explanatory statement by debtors under oath indicating that the situation is not that they just pay their grandson school, but that he is a family member in the household since his birthdate and changing that reality is not just a matter of school expenses but rests on social, emotional, financial and psychological reasons that can not be measured in terms of money and would impair the well-being of the child if arbitrarily changed. Filing a bankruptcy should not disrupt the structure of families with prejudice of minors, specially if they have emotional conditions that require special attention and care.
8. Withe amendments made we believe that the plan is confirmable and debtors will benefit greatly if they are allowed the opportunity to reorganize their finance without the need to incur in additional expenses.
9. Debtors are current in their payments to the trustee.
10. We have attached the following documents with present motion as per trustee's request in his unfavorable report for confirmation:
 - a. Amended plan to include provisions for Christmas bonuses and car insurance
 - b. Initial and amended insurance calculation prepared by Eastern America Insurance Co.
 - c. Sworn statement to clarify particular composition of debtors' household members.
11. **Debtors hereby request from the Court to maintain the order of stay active until this issue is resolved.**

NOTICE

TAKE NOTICE that within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted or decided without actual hearing unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

WHEREFORE, we respectfully apologize for the unintentional delay caused we may have caused and request from this Honorable Court to take notice of the informed above, reconsider and vacate order dismissing case.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this same date a true and exact copy of the foregoing has been filed with the Clerk of the Court that will be notified to the Chapter 13 Trustee José R. Carrión Morales and all other appearing parties using the Court's CM/ECF system. Non appearing parties will be notified by U. S. regular mail as per Master Address List attached.

In Vega Baja, Puerto Rico, on this August 1, 2013

s/ Juan O. Calderon Lithgow
JUAN O. CALDERON LITHGOW
ATTORNEY FOR DEBTOR, 205607
APARTADO 1710
VEGA BAJA, PR 00694-1710
TEL.: 787-858-5476
Email: caldlithlaw@gmail.com

JOSE DANILO MELENDEZ COLON
HC 01 BOX 27364
VEGA BAJA, PR 00693

COOP A/C MANATI
PO BOX 27364
VEGA BAJA, PR 00693

DTOP
PO BOX 41269
SAN JUAN, PR 00940

AMELIA LOZANO ROLON
HC 01 BOX 27364
VEGA BAJA, PR 00693

COOP A/C MANATI
PO BOX 27364
MANATI, PR 00674

FIRST FEDERAL SAVINGS
PO BOX 19327
SAN JUAN, PR 00910-4124

JUAN O. CALDERON-LITHGOW
JUAN O. CALDERON-LITHGOW
P.O. BOX 1710
VEGA BAJA, P. 00694-1710

DTOP
PO BOX 41269
SAN JUAN, PR 00940

FIRSTBANK PR
PO BOX 9146
SAN JUAN, PR 00908-0146

ALMA FINANCIAL
PO BOX 9603
DEERFIELD BEACH, FL 33442

DTOP
PO BOX 41269
SAN JUAN, PR 00940

GECRB/HOME DESIGN
ATTN: BANKRUPTCY
PO BOX 103104
ROSWELL, GA 30076

BORINQUEN COMMUNITY FC
RAMEY SHOPPING CTR #703 B
AGUADILLA, PR 00603

DTOP
PO BOX 41269
SAN JUAN, PR 00940

HOME DEPOT
PO BOX 182676
COLUMBUS, OH 43218-2676

CHILDRENS PLACE/CITICORP
ATTN: CENTRALIZED BANKRUPTCY
PO BOX 20363
KANSAS CITY, MO 64195

DTOP
PO BOX 41269
SAN JUAN, PR 00940

MONEY EXPRESS
PO BOX 11867
FERNANDEZ JUNCOS STA
SAN JUAN, PR 00910-3867

CITIBANK
ATTN:CENTRALIZED BANKRUPTCY
PO BOX 20507
KANSAS CITY, MO 64195

DTOP
PO BOX 41269
SAN JUAN, PR 00940

PREPA
PO BOX 363508
SAN JUAN, PR 00936

CITIFINANCIAL
ATTN: BANKRUPTCY DEPT
PO BOX 140069
IRVING, TX 75014

DTOP
PO BOX 41269
SAN JUAN, PR 00940

RSHK/CBSD
CITI CENTRALIZED BANKRUP
PO BOX20363
KANSAS CITY, MO 64195

CLARO
PO BOX 70366
SAN JUAN, PR 00936-8366

DTOP
PO BOX 41269
SAN JUAN, PR 00940

SAMS CLUB / GEMB
ATT: BANKRUPTCY B
PO BOX 103104
ROSWELL, GA 30076

SAMS CLUB / GEMB
ATTN: BANKRUPTCY
PO BOX 103104
ROSWELL, GA 30076

TEODULA ROLON ALICEA
HC-01 BOX 27364
VEGA BAJA, PR 00693



EASTERN AMERICA INSURANCE COMPANY
P.O.Box 71517 San Juan, PR 00936-8617
Tel: (787) 774-9211

Quote ID: 24493

PREMIUM CALCULATION

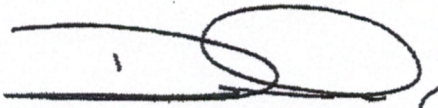
Date requested: 7/26/2013 11:03:02AM
By: eMail
Debtor: JOSE D MELENDEZ COLON
Join debtor: AMELIA LOZANO ROLON
Case #: 1303404
Esq.: JUAN O CALDERON LITHGOW

AMENDED

Manufacturer: SUZUKI
Year: 2008
Lienholder: BCFCU
Balance: \$13,677.00

Manufacturer: GRAND VITARA
VIN #: JS3TE944784100568
Loan: 4831
File Date: 04/30/2013
Maturity Date: 09/01/2016

\$46.00 (MONTHLY PREMIUM 4 MONTHS).
TOTAL ESTIMATED COVERAGE IS: \$184.00



EASTERN AMERICA INSURANCE COMPANY
BANKRUPTCY DIVISION
PO BOX 9023862
SAN JUAN, PR 00902
TEL. 787-774-9211 FAX 787-774-8909

UNABLE TO PROVIDE INSURANCE UNDER THE CHAPTER 13 PLAN

DATE: 07/03/13 06/30/13

CASE: 13-03404

DEBTOR: Jose D Melendez Colón
Amelia Lozano Rolón

ESQ: JUAN O CALDERON

VEHICLE INFORMATION:

MAKE: Suzuki

MODEL: Grand Vitara

YEAR: 2008

VIN: JS3TE944784100568

LOAN#: 4831/BCFCU

REASON FOR ACTION:

- ☒ **LIENHOLDER HAS BEEN SATISFIED BY MAT. DATE: 09/2016**
☐ **COURT HAS ORDER OTHERWISE**
☐ **NADA VALUE IS \$60,000 OR HIGHER**
☐ **NADA VALUE IS LESS THAN \$500.00**
☐ **UNSECURED**
☐ **DIRECT PAYMENT**
☐ **VEHICLE IS A LEASE**


JOEL A. TORRES
MANAGER

DECLARACION JURADA

Yo, AMELIA LOZANO ROLÓN y JOSE DANILO MELÉNDEZ COLÓN mayores de edad, casados entre sí, empleados y vecinos de Vega Baja, Puerto Rico, bajo el más formal y solemne juramento hacemos constar lo siguiente:

1. Nuestros nombres y circunstancias personales son como se ha expuesto anteriormente.
2. Nos hemos acogido a los beneficios de la ley de quiebra en el caso número 13-xxxxx ESL.
3. En nuestra petición y en la reunión de acreedores informamos que nuestro núcleo familiar está compuesto de tres personas y que vivimos en una casa pertenece a Teódula Rólon Alicea.
4. Tenemos una hija que hizo una casa de madera en los altos de donde vivimos y actualmente está casada. A los 21 años tuvo un hijo que lleva los apellidos Mélendez Lozano porque no lleva el apellido de su padre biológico. Actualmente tiene 5 años y desde su nacimiento ha vivido con nosotros con una custodia de hecho, porque la circunstancias y los mejores intereses del menor lo han exigido.
5. La madre del menor no tiene recursos para mantener al niño, pero de vez en cuando aporta algo para su mantenimiento. Sin embargo, nosotros hemos asumido los gastos de su mantenimiento para protegerlo y porque tenemos una obligación moral y legal de no abandonarlo.
6. En la reunión de acreedores el síndico indicó que no está de acuerdo con que mantengamos a nuestro nieto y no aprobó la cantidad que sometimos como gastos del menor. Sin embargo, no hacerlo tiene el efecto de abandonar al menor que tanto necesita de nosotros para sobrevivir. Nos preguntamos si es justo desarticular la estructura familiar que hasta ahora hemos tenido sin valorar adecuadamente el daño que eso pudiera causar.
7. Hacemos esta declaración jurada con el propósito de afirmar bajo juramento que este arreglo familiar y económico no es el producto del capricho ni de una acción reciente, ni que haya sido hecho con el propósito de recargar nuestros gastos en perjuicio de los acreedores. De hecho, cuando los acreedores nos dieron los préstamos lo hicieron contando con esa composición familiar.
8. Es por ese motivo que solicitamos del tribunal que nos permita incluir los gastos de nuestro nieto en el Schedule J y nos permita continuar el caso con esas circunstancias.
9. Lo antes declarado es la verdad y nada más que la verdad.

Y PARA QUE ASÍ CONSTE, juro y suscribo la presente en Vega Baja, Puerto Rico, a
26 de julio de 2013.


AMELIA LOZANO ROLÓN


JOSE DANILO MELÉNDEZ COLÓN

Affidavit #: 23,695

Jurado y suscrito ante mí por AMELIA LOZANO ROLÓN y JOSE DANILO
MELÉNDEZ COLÓN, de las circunstancias personales antes expresadas, a quienes he identificado
con ella: lic. de conducir #1536614; él: Tarjeta Electoral #208³
3938.

En Vega Baja, Puerto Rico, 26 de julio de 2013.




NOTARIO PUBLICO